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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/221,489 12/28/98 WHITE

C 255

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EXAMINER

ELOSHWAY, C

ART UNIT

PAPER NUMBER

3751

DATE MAILED: 09/07/00

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.
09/221,489

Applicant(s)

White et al.

Examiner
Charles Eloshway

Group Art Unit
3751



☒ Responsive to communication(s) filed on Aug 7, 2000

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1035 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire three month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claim

☒ Claim(s) 2-17 is/are pending in the application.

Of the above, claim(s) _____ is/are withdrawn from consideration.

☐ Claim(s) _____ is/are allowed.

☒ Claim(s) 2-17 is/are rejected.

☐ Claim(s) _____ is/are objected to.

☐ Claims _____ are subject to restriction or election requirement.

Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☒ None of the CERTIFIED copies of the priority documents have been received.

☐ received in Application No. (Series Code/Serial Number) _____.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☐ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s) _____

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

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DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 10-14, 17, and 2-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Craigmile in view of Olson.

Regarding claims 10, 2, and 6-8, Craigmile teaches a "housing" (14) having an "open top" (formed by the upwardly extending threaded element 30), a "scrubbing medium" (12), a "valve" (39), a "cap" (40) "removably attached" to the "housing" for "closing the open top" of the "housing" (see fig. 3) and "defining an opening" therein (see fig. 3), a "flexible and resilient member" (42) that is "fixed to the cap" (see figs. 3 and 4) and covers the "opening" defined by the "cap" (see fig. 3), and a "spring" (62) having the claimed location. Although Craigmile lacks an "actuator member" as claimed, Olson teaches another dispensing brush including an "enlarged actuator member" (29) received on the end of a valve stem. In view of Olson, it would have been obvious to the ordinary artisan to add an "enlarged actuator member" to the Craigmile valve stem to provide a larger contact surface area for operation of the valve. The Craigmile "cap" (40) is considered to "form" a "top wall" of the "housing" by virtue of its connection to the top opening

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in the housing. It also “extend[s] transversely” of the axis of the “housing” in the same manner as does applicant’s “cap.”

Regarding claim 17, Craigmile teaches a “gasket portion” (the outer margin of element 42, which is connected to the interior of the “cap”). The “gasket portion” provides a “fluid-tight seal” as claimed, because fluid is prevented from entering the “housing” through the “cap” by virtue of the connection between the interior of the “cap” and the “flexible member.”

With respect to claims 11 and 12, Olson teaches an “actuator member” having the claimed shape and including a “socket.” See fig. 3.

Craigmile clearly teaches the features recited in claims 13 and 14. See, e.g., figs. 3 and 4.

Regarding claim 3, Craigmile teaches that the device is more or less rectangular in shape rather than “substantially cylindrical” as claimed. Absent some showing to the contrary, simply changing the shape of the Craigmile device from rectangular to something more “cylindrical” would have been obvious to the ordinary artisan, for the purpose of improving the aesthetic appearance of the device, improving usability, etc. See In re Dailey, 149 U.S.P.Q. 47, 50 (C.C.P.A. 1966).

With respect to claim 5, the “recesses” formed by the threads in element (30) are considered to be “laterally inwardly extending” of and “circumferentially” around the “housing,” inasmuch as those terms have been defined in the instant disclosure.

With respect to claims 4 and 9, Craigmile suggests to one skilled in the art that at least some parts of the reservoir may be made of plastic. Craigmile, col. 2, lines 19 and 20. Given this

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suggestion and the general knowledge in the art that plastic is a commonly used construction material, it would have been obvious to the ordinary artisan to fabricate the Craigmile "housing" from plastic in order to simplify its construction, reduce its weight, and lower its manufacturing cost. It would have further been obvious to use a transparent or semi-opaque plastic so that the user can see the level of fluid in the housing and add more as needed.

3. Claims 15 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Craigmile in view of Olson as applied to claims 13 and 14 above, and further in view of Tourot.

Craigmile lacks the claimed "O-ring" and the claimed location of the "spring." Tourot teaches an "O-ring" (15) and also teaches that the biasing spring may be located interiorly of the reservoir, between the "base wall" (13) and "valve stem" (16). In view of Tourot, it would have been obvious to the ordinary artisan to provide the Craigmile device with an "O-ring" or similar sealing structure in order to improve the seal between the end of the valve stem and the aperture in the reservoir. It would have further been obvious in view of Tourot to adapt the Craigmile device to have the "spring" located interiorly of the reservoir, because the two arrangements have been shown to be functionally equivalent in the same art for the same purpose.

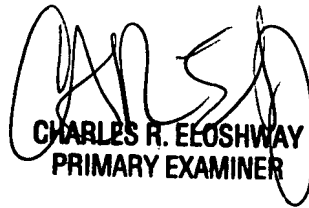
Response to Arguments

4. The Remarks accompanying the amendment after final rejection filed 6 July 2000 have been fully considered but they are not persuasive.

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At pg. 4 of the Remarks, applicant makes a general allegation that Craigmile fails to teach the limitations pertaining to the "cap" and "flexible and resilient member," but offers no specifics as to why Craigmile fails to meet the claim language. The rejections above address each of these limitations.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Charles Eloshway whose telephone number is (703) 308-0104.



CHARLES R. ELOSHWAY
PRIMARY EXAMINER

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August 31, 2000